

## ASSET PURCHASE AGREEMENT

29th day of December, 2015, by and between **REFUGE MEDIA GROUP**, a Minnesota non-profit corporation (the "*Seller*"), and **COMMUNITY FIRST BROADCASTING, LLC**, a South Dakota limited liability company (the "*Buyer*") (Seller and Buyer are sometimes referred to hereinafter as a "*party*" or, collectively, as the "*parties*").

### WITNESSETH:

**WHEREAS**, Seller is the licensee of FM Radio Translator Station K201HD (FCC ID 106580), licensed to Clara City, Minnesota ("the *Translator*"), and owner and holder of the Assets (as defined below); and

**WHEREAS**, as an express condition of this Agreement, Seller agrees to file an application or applications with the Federal Communications Commission (the "*FCC*") to change the Translator frequency and make other modifications as contemplated by the parties to enable Buyer to operate the Translator as a commercial broadcast retransmission service of Buyer's KSOU(AM), Sioux Center, IA, in accordance with FCC rules and policies (collectively, the "*Modifications*"); and

**WHEREAS**, the parties have agreed upon, and now wish to memorialize by execution of this Agreement, the terms and conditions under which, contingent upon and subject to the FCC's approval of the Modifications, Seller will assign and Buyer will acquire the License and Assets for the Translator.

**NOW, THEREFORE**, in consideration of the mutual covenants, agreements and representations and warranties set forth herein, intending to be legally bound hereby, the parties agree as follows:

1. **Purchase and Sale of Assets.** At the Closing (as defined below), upon the terms and subject to the conditions set forth in this Agreement, and in reliance on the representations, warranties, covenants and agreements made in this Agreement, Seller shall assign and transfer to Buyer and Buyer shall acquire and assume from Seller the following assets (the "*Assets*"), free and clear of debts, liens, and other encumbrances except as specifically provided:

1.1 **License.** All licenses, permits and other authorizations issued by the FCC in connection with the conduct of the business and operation of the Translator, and any other licenses, permits and other authorizations issued by any governmental authority and used in the conduct of the business and operation of the FM Translator, and all pending applications therefore (the "*Licenses*").

1.2 **Personal Property.** The fixed and tangible personal property owned by Seller, used primarily in the operation of the Translator and set forth in **Exhibit A** hereto (the "*Personal Property*").

1.3 **Contracts.** The rights of Seller under the agreements or contracts related to the operation of the Translator and set forth in **Exhibit B** hereto (the "*Contracts*").

2. **Purchase Price.** At the Closing, Buyer will pay Seller the Purchase Price of FORTY THOUSAND DOLLARS (\$40,000.00), in the form of cash, wire transfer or other immediately available funds. Additionally, Buyer will be solely responsible for all costs, including filing fees, associated with the filing and prosecution of the Modifications; provided, however, that the preparation of applications for and the cost of all engineering services associated with the Modifications shall be the responsibility of and be borne solely by Phoenix Media Group ("PMG") and performed by PMG's affiliate Skywaves Consulting, LLC. and shall be filed by Seller on Buyer's behalf. As consideration for these services, upon execution of this Agreement Buyer shall pay to PMG the sum of FOUR THOUSAND DOLLARS (\$4,000.00), which payment shall be non-refundable.

3. **Closing.**

3.1 **Closing Date.** The closing of the transactions contemplated by this Agreement (the "*Closing*") shall occur at a time and place mutually agreed upon by the parties no later than fifteen (15) days following the date that the FCC's grant of the later of the application to assign the License (the "Assignment Application") and the FCC's grant of the Modifications shall each have become a Final Order (as defined below), unless the FCC shall have granted both the Assignment Application and the last of the necessary Modifications and Seller and Buyer jointly agree to waive the requirement of finality. The term "*Closing Date*" shall mean the date of the Closing.

3.2 **Final Order.** For purposes of this Agreement, a "*Final Order*" shall mean an action by the FCC: (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended, (ii) with respect to which no timely appeal, request for stay or petition for rehearing, reconsideration or review by any party or by the FCC on its own motion, is pending, and (iii) as to which the time for filing any such appeal, request, petition, or similar document, or for the reconsideration or review by the FCC on its own motion under the Communications Act of 1934 and the rules and regulations of the Commission, has expired.

3.3 **Closing Condition.** The foregoing notwithstanding, the Closing is expressly conditioned upon the grant of the FCC Consent (defined below) and the Modifications with terms and conditions acceptable in all respects to Buyer.

4. **Assumption of Obligations.** Buyer does not, and shall not be deemed to, assume any liabilities, obligations, claims, duties, liens, encumbrances or commitments of Seller after the Closing Date except for Seller's obligations arising under this Agreement.

5. **FCC Consent.** The assignment of the License contemplated by this Agreement is subject to the FCC having granted the Assignment Application (the "*FCC Consent*") and all of the Modifications as set forth in Section 3 and as described below.

- (a) As soon as practicable after the execution of this Agreement, in cooperation with Buyer, Seller will file the Modifications, including an application acceptable to Buyer to change the Translator frequency. Seller shall prosecute the Modifications with all reasonable diligence and use its reasonable best efforts to obtain the grant of all Modifications as expeditiously as practicable.
- (b) Simultaneously with the filing of the Modifications, Seller and Buyer Seller shall file an application with the FCC for assignment of the License for the Translator. Seller and Buyer will prosecute the Assignment Application with all reasonable diligence and otherwise use their reasonable best efforts to obtain the grant of the FCC Consent as expeditiously as practicable. If the FCC Consent imposes any condition on any party, such party shall use reasonable efforts to comply with such condition; *provided, however*, that no party shall be required to comply with any condition that would have a material adverse effect as determined by the party affected in the exercise of its reasonable judgment. The FCC's refusal to approve any of the Modifications, including the change of Translator frequency, will constitute such a material adverse effect and in such event, Buyer will have no obligation to consummate this transaction.

6. **Representations, Warranties, and Covenants of the Seller.** Seller hereby represents, warrants, and covenants to Buyer that the following are true and correct in all material respects as of the date of this Agreement and will be true and correct on the Closing Date:

6.1 **Corporate Status.** Seller is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota. Seller has all requisite corporate power and authority to own and assign and transfer the Assets and to carry on its business and the operation of the Translator as they may be conducted. Seller has all requisite corporate power and authority to complete the transactions associated with the Frequency Change.

6.2 **Authorization of Agreement.** Seller has full corporate power and authority to execute, deliver and perform this Agreement and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby, including the Modifications. The execution, delivery and performance of this Agreement has been, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby have been, or prior to the

Closing will have been, duly and validly authorized by all necessary corporate action of Seller.

6.3 **No Conflict.** The execution, delivery and performance of this Agreement do not violate: (a) any provision of the organizational documents of Seller; (b) any provision of, or result in any default under, any mortgage, lien, lease, contract, instrument, order or other judgment, or decision to which Seller is a party or by which the License is bound; or (c) any law applicable to Seller.

6.4 **Binding Agreement.** This Agreement constitutes, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby will constitute, the valid and binding obligations of Seller and are enforceable against Seller, in accordance with their respective terms.

6.5 **Governmental Authorizations.** Seller is the authorized holder of the Licenses, none of which are subject to any restrictions or conditions which would limit in any respect the full and lawful operation of the Translator. The License is a validly existing authorization for the operation of the facilities described therein. There are no applications or proceedings pending (including, without limitation, any action, proceeding, investigation or order to show cause, notice of violation, notice of apparent liability or complaint involving Seller or the Translator by or before the FCC) nor, to the knowledge of Seller are there any such applications, proceedings or complaints threatened which individually or in the aggregate may have an adverse effect on the business or operation of the Translator (other than rulemaking proceedings that apply to the radio broadcasting industry generally). All material reports, forms and statements required to be filed by Seller with the FCC with respect to the License have been filed and are substantially complete and accurate. There are no facts which would disqualify Seller as assignor of the License under the Communications Act of 1934, as amended, or the rules and regulations of the FCC.

6.6 **No Undisclosed Liabilities.** There are no liabilities with respect to the Translator other than the liabilities retained by Buyer under this Agreement.

6.7 **Legal Proceedings.** There are no suits, actions, condemnation actions, claims, arbitration, or other proceedings or governmental investigations (collectively, "*Litigation*") pending or threatened against or affecting the Translator, nor is Seller subject to any writ, judgment, award, decree or order of any court or governmental authority that would adversely affect Buyer's ability to acquire the Translator. There is no *Litigation* pending or, to Seller's knowledge, threatened against or affecting Seller that could adversely affect or prevent the consummation of the transactions contemplated hereby.

6.8 **Licenses; Compliance with Laws.** Seller has complied, and is complying, with all laws applicable to the Translator. Seller has not received notice of, nor is Seller in default under or in breach or violation of, any statute, law, ordinance, decree, order, rule or regulation, or the provisions of any franchise, license or permit,

including the License. The execution, delivery and performance of this Agreement by Seller, and the consummation of the transactions contemplated hereby, will not result in any such default or violation or in the creation of any lien, charge or encumbrance upon the Translator.

7. **Representations, Warranties and Covenants of the Buyer.** Buyer hereby represents, warrants and covenants to Seller that the following are true and correct in all material respects as of the date of this Agreement and will be true and correct on the Closing Date:

7.1 **LLC Status.** Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of South Dakota. Buyer has all requisite power and authority to own the Translator and to carry on its business and the operation of the Translator as they may be conducted.

7.2 **Binding Agreement.** This Agreement constitutes, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby will constitute, the valid and binding obligations of Buyer and are enforceable against Buyer in accordance with their respective terms.

7.3 **Consents.** No consent or approval of any third party or governmental body (other than the FCC) is required for the consummation by the Buyer of the transactions contemplated by this Agreement.

7.4 **Qualification.** There are no facts which, under the Communications Act of 1934 as amended, or the existing rules and regulations of the FCC, would disqualify Buyer as an assignee of the License.

8. **No Control of Station.** Prior to the Closing Date, Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Translator; such control, supervision and direction shall remain and shall be the sole responsibility of Seller.

9. **Conditions of Closing.**

9.1 **Buyer's Obligations.** The obligations of Buyer under this Agreement are subject to the fulfillment, at the Closing on the Closing Date, of all of the conditions precedent set forth in this Section 9.1:

9.1.1 **FCC Consent.** The FCC shall have granted both the Assignment Application and all of the Modifications, each of which grants shall have become a Final Order unless finality has been waived by the parties. Notwithstanding anything to the contrary in this Agreement, Buyer shall have no obligation to consummate the transactions contemplated hereunder absent the FCC's grant of the Modifications pursuant to terms and conditions acceptable in all respects to Buyer.

9.1.2 **Instruments of Conveyance.** Seller shall have delivered to Buyer the following instruments, all of which shall be in a form customary in the State of South Dakota and reasonably satisfactory to Buyer:

- (i) Bills of sale and other instruments of assignment and transfer, covering all the Personal Property;
- (ii) Assignments and other appropriate instruments assigning the License and the Contracts;
- (iii) Certified copies of resolutions of Seller authorizing and approving the execution and delivery of this Agreement by an authorized officer of Seller, and each of the other documents to be delivered in connection herewith, and authorizing the consummation of the transactions contemplated hereby;
- (iv) Such other documents as Buyer shall reasonably request and which are necessary to place Buyer in actual possession and operating control of Translator and the Assets being transferred hereunder.

9.1.3 **Accuracy of Representations – Compliance with Covenants.** The representations, warranties and covenants of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as if made on that date, except to the extent otherwise contemplated herein, and Seller shall have complied in all material respects with all its covenants herein.

9.1.4 **Other Acts.** Seller shall, within reason, have performed any other actions which are necessary to effectuate the transactions contemplated herein.

9.2 **Seller's Obligations.** The obligations of the Seller under this Agreement are subject to the fulfillment, at the Closing on the Closing Date, of all of the conditions precedent set forth in this Section 9.2:

9.2.1 **FCC Consent.** The FCC shall have granted both the Assignment Application and the Modifications, each of which grants shall have become a Final Order, unless finality has been waived by the parties..

9.2.2 **Purchase Price.** Buyer shall have delivered to Seller the Purchase Price.

9.2.3 **Accuracy of Representations – Compliance with Covenants.**

The representations, warranties and covenants of Buyer contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as if made on that date, except to the extent otherwise contemplated herein, and Buyer shall have complied in all material respects with all its covenants herein.

9.2.4 **Assumption of Liabilities.** Buyer shall have delivered to Seller a document, in form and substance reasonably satisfactory to Seller, whereby Buyer assumes the Contracts.

9.2.5 **Other Acts.** Buyer shall, within reason, performed any other actions which are necessary to effectuate the transactions contemplated herein.

10. **Termination.**

10.1 **Termination for FCC Denial or Inaction.** If both the FCC Consent and the Modifications shall not become Final Orders by 06/30/2017, or such other date as Buyer and Seller mutually agree to, or if the FCC fails or refuses to grant any of the Modifications with terms and conditions acceptable to Buyer, either Buyer or Seller may terminate this Agreement upon written notice to the other, provided that the party seeking to terminate is not in default hereunder. In the event of such termination, neither party shall have any further obligation to the other and Buyer shall have no obligation to pay the Purchase Price to Seller.

10.2 **Termination for Default:** Either party may terminate this Agreement if the other shall be in material breach hereof and if the said breach shall not have been cured within ten (10) days of receipt of written notice thereof by the party seeking to terminate.

11. **Indemnification.**

11.1 **Indemnification of Buyer.** Seller shall indemnify, defend and hold Buyer, its members, officers, affiliates, successors and assigns, harmless from and against any claim, liability, loss, damage, judgment or expense (including reasonable attorney's fees) of any kind or nature arising out of or attributable to: (i) any material inaccuracy in any representation or breach or failure of any warranty, covenant or agreement of Seller contained herein, or (ii) any failure by Seller to perform or observe, or to have performed or observed, in any material respect any agreement or condition to be performed or observed by Seller hereunder.

11.2 **Indemnification of Seller.** Buyer shall indemnify, defend and hold the Seller, its members, officers, affiliates, successors and assigns, harmless from and against any claim, liability, loss, damage, judgment or expense (including reasonable attorney's fees) of any kind or nature arising out of or attributable to: (i) any material inaccuracy in any representation or breach or failure of any warranty, covenant or agreement of Buyer

contained herein, or (ii) any failure by Buyer to perform or observe, or to have performed or observed, in any material respect any agreement or condition to be performed or observed by Buyer hereunder.

12. **Miscellaneous Provisions.**

12.1 **Survival of Representations, Warranties, and Covenants.** The representations, warranties, and covenants of the Buyer and the Seller contained in this Agreement shall survive and be enforceable for one (1) year after the Closing Date.

12.2 **Fees and Expenses.** Except as expressly set forth in this Agreement, each of the parties will bear its own expenses relating to the negotiation and the consummation of the transactions contemplated by this Agreement.

12.3 **Entire Agreement.** This Agreement and the Exhibits hereto embody the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.

12.4 **Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

12.5 **Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, addressed to the following addresses, or to such other address as any party may request.

If to Seller:

Refuge Media Group, Inc.  
4604 Airpark Blvd.  
Duluth, MN 55811  
Attention: Daniel B. Hatfield, CEO  
Telephone: (218) 722-2727

With a copy to:

John Neely, Esq.  
Neely & Neely, PC  
3750 University Blvd. West  
Kensington, MD 20895  
Telephone: (301) 933-6304

If to Buyer:

Neil Lipetzky  
Managing Member  
Community First Broadcasting, LLC  
5809 S. Remington Place, Suite 106  
Sioux Falls, SD 57108  
Telephone: (605) 274-3373  
Facsimile: (605) 274-3372

With a copy to:

Lawrence Bernstein  
Law Offices of Lawrence Bernstein  
3510 Springland LN, NW  
Washington, D.C. 20008  
Telephone: (202) 296-1800  
Facsimile: (202) 296-1800

Any such notice, demand or request shall be deemed to have been duly delivered and received (a) on the date of personal delivery, or (b) on the date of transmission, if sent by facsimile (but only if a hard copy is also sent by overnight courier or United States Express Mail), or (c) on the date of receipt, if mailed by certified mail, postage prepaid and return receipt requested, or (d) on the date of a signed receipt, if sent by an overnight delivery service, but only if sent in the same manner to all persons entitled to receive notice or a copy.

12.6 **Benefit and Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither party may assign its rights, interest or obligations under this Agreement without the prior written consent of the other party.

12.7 **Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of South Dakota, applicable to agreements made and to be performed in the State of South Dakota, without regard to its principles of conflicts of law.

12.8 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement as of the date herein first above-written.

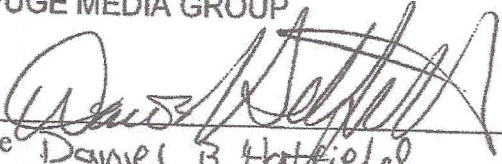
SELLER:

REFUGE MEDIA GROUP

By

Name

Title:

  
Daniel B. Hatfield  
CEO

BUYER:

COMMUNITY FIRST BROADCASTING, LLC

By


  
Neil Lipetzky  
Managing Member

Exhibit A

*Personal Property*

Transmission equipment for K201HD, Clara City, MN

**Exhibit B**

***Contracts***

[COMM 1ST – K201HD APA 121715]